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ACCESS TO LAND FOR WOMEN IN ETHIOPIA

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ABSTRACT

Context and background

Access to land and productive resources for women is low in many countries especially in the developing world where there are less secure property rights in general. Though there is no clear indication as to which groups should be considered vulnerable in Ethiopia, the groups mentioned under section two are practically considered vulnerable. These groups in Ethiopia include women, orphan children, HIV/AIDS victims, pastoralists, poor peasants, persons with disabilities and the urban and rural poor. Moreover, no proclamation in the country has listed who vulnerable groups are. Only a single proclamation i.e proclamation number 916/2016 tries to highlight the presence of some fabric of society who are considered as vulnerable without further explanation under its article 34/13/c.

The main causes which affect the lives of the women and other vulnerable groups emanate from policy, legal, customary, social and political loopholes in the country.

Goal and Objectives:

The overall objective of this study was to examine the land administration shortcomings that affect access to land for women in Ethiopia .

Methodology:

The researchers used a transcendental phenomenological approach to investigate the lived experiences of the women and other vulnerable groups in Ethiopia. By investigating literatures and approaching the participants in a manner where they should express the experiences they have been in and the systematic analysis of policy, legal and social realities with respect access to land.

Results:

Ethiopia include women, orphan children, HIV/AIDS victims, pastoralists, poor peasants, persons with disabilities and the urban and rural poor are Highly Affected ground. Moreover, no proclamation in the country has listed who vulnerable groups are. Elderly, HIV victims, disabled and unemployed are the groups of vulnerability. Inadequate legal and institutional regime, customary practices, lack of political will and land administration shortcomings are among the causes of vulnerability in Ethiopia. Therefore, addressing such main causes of vulnerability requires nothing beyond alleviating problems related to the legal shortcomings, the inadequacy of legal and land experts, corruption and political reluctance, patriarchal customary practices and bad system of land administration. The government should, therefore, give a serious emphasis in these respects.

Keywords: *Vulnerable groups, Access to Land , land rights,, Land*

1. INTRODUCTION

Ethiopia is considered to have one of the best agricultural lands in Africa. About 85% of the population in the country lives off the land. In addition to own labor, land is surely the only asset that could effectively be put at the disposal of the majority of the population. The corollary of this is self-evident. Land is not put to a very good use, though it holds tremendous promise to reduce poverty, bring about structural transformation to the hitherto unrewarding smallholder based agrarian economy and foster sustainable development of the country. The abuse of the country's land is attributed to many factors, which have both policy and technical dimensions.

“.....the most essential value, because the most concrete, is first and foremost the land; the land which will bring them bread, and above all, dignity.” (Fanon, 1968; 44).

The quotation, Fanon's saying on his book, *Wretched of the earth*, is even most likely applicable on vulnerable groups access to land especially in developing countries like Ethiopia. This is because, anyone who coercively denies another of ownership or access to land in actual fact denies that individual access to life, thus violating that individual's most fundamental right, the right to life (Mabogo, 2013). Right of property which right holders can express their personality according to the Hegelian philosophy of private property is more daring in developing countries like Ethiopia where vulnerable groups including women are at a disadvantage.

Vulnerability, the susceptibility to harm, results from an interaction between the resources available to individuals and communities and the life challenges they face. Vulnerability results from developmental problems, personal incapacities, disadvantaged social status, inadequacy of interpersonal networks and supports, degraded neighborhoods and environments, and the complex interactions of these factors over the life course. The priority given to varying vulnerabilities, or their neglect, reflects social values.

Vulnerability may arise from individual, community, or larger population challenges and requires different types of policy interventions—from social and economic development of

neighborhoods and communities, and educational and income policies, to individual medical interventions. Vulnerability is usually treated similarly to notions of need, risk, susceptibility to harm or neglect, or lacking durability or capability caused by age, sex, and race/ethnicity, family structure, marital status, and social networks and by access to resources (Mechanic and Tanner, 2007). Vulnerable groups often encounter discriminatory treatment and need special attention to avoid potential exploitation. These structural norms create subordinate-dominant relationship (Chatterjee and Sheoran, 2007). These groups in Ethiopia include women, orphaned children, HIV/AIDS victims, pastoralists, persons with disabilities and the urban and rural poor. Though several laws including the FDRE constitution and the country's GTP takes in to account the right of vulnerable groups especially of women, empirical evidences show that there are still practical problems in the implementation. The Ethiopian constitution under its articles 25, 35, 40, 41, 89 among other provisions are the instances that stipulate equality of persons without any kind of discrimination for access to social and economic rights including access to land. The country's GTP also promotes the participation of the youth and women in decision making process including ensuring equality of women in access to and control of land and other productive assets (GTP II, 2015).

Based on the authority granted to them by the federal constitution, the regions also have the power to enact laws to administer rural and urban land in accordance with the federal laws within their territory (Art 52 (2)/d. Currently, all the regions have enacted their own land laws in conformity with the federal land law though there are major disparities among the laws.

Moreover, Ethiopia is a member to many international and regional human right conventions like International Convention on Civil and Political Rights(ICCPR, art 1, 27), International Convention on Economic Social Cultural Rights (ICESCR) (1, 11), Convention on the Elimination of all forms of Discrimination against Women(CEDAW ,art 14), Convention on Elimination of Racial Discrimination (CERD), Convention Right of Child, African Charter on Human and Peoples Rights (21, 60, 61). Though these conventions do not directly enshrine land rights (except art 21 of the ACHPR which says ... “right to natural resources which can include land), they all guarantee the right of socio economic development. These international agreements contribute a lot to strengthening the right to property including the land without any form of discrimination (IFIAN international, 2008). The state party to the conventions is, therefore, under duty to ensure the protection of these rights.

Despite all these guarantees, access to land for women and other vulnerable groups is not yet secured because of customary practices against women, societal attitudes and lack of political will (Cotula et al, 2004). Even when these vulnerable groups have access to land through the instrumentality of the laws and policies of the country, it is far from truth that these groups have actual control over land. The problems are embedded in the deeply rooted socio-cultural norms, attitudes and customary practices (Asmare, 2016). *“Laws without enforcement will not help much when there are strong traditions against them, but can be an important step in the right direction with proper follow-up (UN-Habitat, 2008).”* Therefore, there is a need to look beyond the legal and policy reforms and adopt broad based social change towards women’s and other vulnerable groups at African women’s land rights conference, (Negadras ,2011). As Negadras G/Baykedagn ,2011 beautifully stated, *“God gave us the land which is the source of everything so that we can be the master of it which will also guarantee our destiny: if we exploit it we will become masters of the land, if we don’t we will become slaves and the government should consider this.”* It is, therefore, a question of life and death that access to land should be given the best possible consideration in laws, policies and practices of a certain state. When a multifarious reason for inadequate access and control to land of the women and other vulnerable groups are unearthed and only when there are firm commitments to create an enabling environment to practice the opportunity might become sinews for women and other vulnerable groups empowerment so that their voices will be heard.

1.2. Objective of the study

1.2.1. General Objective

The overall objective of this study was to examine the land administration shortcomings that affect access to land for women in Ethiopia .

1.2.2 Specific objectives; the following specific objectives are designed to be achieved to undertake the study:

- I. To explore the nature of vulnerable groups in Ethiopia

II. To examine the land administration related causes affecting women and other vulnerable groups access to land

III. To describe the mechanisms to enhance the participation of women and other vulnerable groups in accessing and controlling land

1.3 RESEARCH QUESTION

To examining access to land by women within the in Ethiopia The study was guided by the following questions:

- 1) What problems do women face while accessing land?
- 2) What are the root causes of those problems?
- 3) What interventions have been undertaken to address the problems?
- 4) How do the interventions address the root causes of the problems?
- 5) What are the key outcomes of the interventions?
- 6) What are the key challenges you are facing during the implementation processes?

2. ACCESS TO LAND FOR VULNEABLE GROUPS.

2.1 Who are Vulnerable Groups?

Vulnerability is a concept troubled with puzzle. “Confusing, complex, vague, ambiguous are but a few of the labels scholars across disciplines have used to refer to it.” (Peroni and Timmer, 2013). A central paradox of vulnerability is that it is both universal and particular. Both of these features *arise in the first place from our embodiment: as embodied beings we are all vulnerable*, but we experience this vulnerability uniquely through our individual bodies (Ibid). According to Mary Neal, “vulnerability speaks to our universal capacity for suffering, in two ways. First, I am vulnerable because I depend upon the co-operation of others (including, importantly, the State) . . . Second, I am vulnerable because I am penetrable; I am permanently open and exposed to hurts and harms of various kinds. (Ibid) Thus, as vulnerable subjects we are constantly susceptible to harm. Harm comes in many varieties that intersect and reinforce one another such as bodily, moral, psychological, economic and institutional injuries, just to mention a few(Ibid). Martha Fineman points out that the experience of vulnerability “is greatly influenced by the quality and quantity of resources we possess or can command.” (Ibid)

Vulnerability connotes the imbalance between threats and coping up mechanisms; meaning when people’s threats are greater than their ability to avert that problem. But definition and nature of vulnerability varies according to economic, social, political and historical circumstances of states’ local context. Values affect how society views the vulnerable—as victims or sinners—and thus whether or not to provide public assistance (David and Jennifer , 2007). Vulnerability, the susceptibility to harm, results from an interaction between the resources available to individuals and communities and the life challenges they face. Vulnerability results from developmental problems, personal incapacities, disadvantaged social status, inadequacy of interpersonal networks and supports, degraded neighborhoods and environments, and the complex interactions of these factors over the life course (Human Research Ethics Committee Further Exploration of Vulnerable Groups

HREC Document No: 6, 2008 Pages 1-7). The priority given to varying vulnerabilities, or their neglect, reflects social values.

Vulnerability may arise from individual, community, or larger population challenges and requires different types of policy interventions—from social and economic development of neighborhoods and communities, and educational and income policies, to individual medical interventions (Ibid). From an economic perspective, including access to land, vulnerability may refer to the whole legal, cultural, political, religious and societal views that people of certain groups prone to damage and the inability of these groups to overcome the damage by themselves. According to the general perspective of International Law of Human Rights, disadvantaged and/or vulnerable groups are the people who are denied free access to the guaranteed rights in their free exercise (Gade, 2012). Based on the socio, economic, cultural perspectives, the classification of these groups vary from country to country. In general, women, children, socially, economically, culturally deprived sections, disabled, minorities etc. form part of disadvantaged groups (Ibid). Poverty is the main contributing factor towards degradation of the status of these people that are classified as disadvantaged groups.

2.2 Access to Land for the Vulnerable Groups

According to General Comment 12, the obligation to fulfill includes two aspects: On one hand, the obligation to *facilitate* which means that the State must try to initiate activities with the purpose of strengthening the resources and the means of the population so that they have improved access to land and productive resources (Till and Nikki, 2008). When an individual or group is incapable, for reasons beyond their control, of enjoying the right to adequate food by the means at their disposal, the State has the obligation to fulfill that right directly (paragraph 15).

The obligation to fulfill the access to land of indigenous peoples and of women is contained in Article 19 of Convention 169 of the ILO: Article 19- National agrarian programs shall secure to the peoples concerned, treatment equivalent to that accorded to other sectors of the population with regard to: (a) The provision of more land for these peoples when they have not the area necessary for providing the essentials of a normal existence, or for any possible increase in their numbers; (b) The provision of the means required to promote the development of the lands, which these peoples already possess (Ibid).

And in Article 14.2 g, h of CEDAW (Convention on the Elimination of all forms of Discrimination against Women) :

“2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on basis of the equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”

The vulnerable group refers to the power of protecting access to land in the following paragraphs:

States should facilitate sustainable, nondiscriminatory and secure access and utilization of

- 1 resources consistent with their national law and with international law and protect the assets that are important for people's livelihoods. States should respect and protect the rights of individuals with respect to resources such as land, water, forest, fisheries and livestock without discrimination.
- 2 States should pay particular attention to the specific access related problems of women and of vulnerable, marginalized and traditionally disadvantaged groups, including all persons affected by HIV/AIDS. States should take measures to protect all people affected by HIV/AIDS from losing their access to resources and assets.

States should take measures to promote and protect the security of land tenure especially with respect to women, and poor and disadvantaged segments of society, through legislation that protects the complete and equal right to own land and other property, including the right to inherit land and other property (Tilly and Nikki, 2008).

3. MATÉRIAL AND METHOD

3.1 Research Design

The study was dominantly shaped by the view that the research participants should be benefited by the action agenda for reform of their lives, institutions in which they live or work (Creswell, 2007). The researchers believe that the nature of the research requires studying issues like oppression, domination, suppression, alienation and hegemony. The structural causes for domination, oppression, suppression, alienation and hegemony shall be deconstructed which won't, therefore, be possible without listening and giving advocacy for the oppressed so that they can get their voices heard. Accordingly, the research was mainly based on a qualitative design. This design was proper to deeply investigate the realities in the legal, policy and practical situations of access to land for women and other vulnerable groups and a case for improved access to land for women and other vulnerable groups. Through this design the country's specific, unique and idiosyncratic situations in land rights for women and other vulnerable groups. However, the study will also be substantiated with a quantitative design which will be helpful to know the extent or the level of access to land for women and other vulnerable groups and the seriousness of the causes for the shortcomings of access to land for women and other vulnerable groups.

3.2 Research Approach

The researchers used a transcendental phenomenological approach to investigate the lived experiences of the women and other vulnerable groups in Ethiopia. By investigating literatures and approaching the participants in a manner where they should express the experiences they have been in and the systematic analysis of policy, legal and social realities with respect access to land.

3.3 Data source and collection instruments

The research is dominantly of a desk research type but some field works will be performed for validity purposes. Accordingly, researches conducted in relation to Ethiopian women and other vulnerable groups were consistently consulted. Key informant interviews with officials and experts on land administration from Federal to regional and woreda level were conducted. Fully structured questionnaires were also distributed to women, peasants, pastoralists, HIV victims and persons with

disability. The data collected from the primary sources were analyzed using thematic/segmental analysis by identifying, interpreting and categorizing the opinions of the respondents. The researchers analyzed the laws, journals, texts and reports the researcher using content analysis in a qualitative manner.

4. THE LEGAL REGIME GOVERNING ACCESS TO LAND BY WOMEN AND OTHER VULNERABLE GROUPS IN ETHIOPIA.

Beyond the constitution and the proclamations governing on property issues in Ethiopia, it is also necessary to note that Ethiopia is a member to other regional and International Organizations including ACHPR, ICCPR, ICESCR, CEDAW, CERD, CRC, etc. These instruments have directly or indirectly added the equality of all kinds of persons without discrimination on the right to property. The current domestic legal frame work governing access to land in Ethiopia includes the FDRE Constitution, the federal and regional land laws and international conventions ratified by the country. The FDRE Constitution under its article 9/4 states that *“all international agreements ratified by the country are integral parts of the law of the land”*. Hence, all international conventions ratified on women’s and other vulnerable groups rights and commitments entered to implement the Beijing Platform for Action and to meet the MDGs are included in the constitution and government is obliged to implement these provisions. Land policy is embedded in the FDRE’s Constitution and the constitution states: *“The Right to ownership of urban and rural land, as well as of all natural resources is exclusively vested in the state and in the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subjected to sale or to other means of exchange”* (FDRE Constitution, 1995: 40/3). In addition, article 35 (1) of the FDRE Constitution says, Women shall, in the enjoyment of rights and protections provided for by this Constitution, have equal right with men. Article 35 (6, and 7), Women have the right to full consultation in the formulation of national development policies, the designing and execution of projects, and particularly in the case of projects affecting the interests of women. Women have the right to acquire, administer, control, use and transfer property. In particular, they have equal rights with men with respect to use, transfer, administration and control of land. They shall also enjoy equal treatment in the inheritance of property. We can deduce that Article 25 of the FDRE Constitution as a substantive equality without discrimination and special provisions under article 35 duly recognized the rights of women but failed to stipulate special recognition to other vulnerable groups including persons with disability. Moreover, the constitution includes special emphasis for peasants and pastoralists access to land. Article 40 (4) and (5); state that; Ethiopian peasants have right to obtain land without payment and the protection against eviction from their possession. The implementation of this provision shall be specified by law. Moreover, Ethiopian pastoralists have the right to free land for grazing and cultivation as well as the right not to be displaced from their own lands. The implementation shall be specified by law.

These constitutional provisions are, however, general statements and are confined to women, peasants and pastoralists and do not include the protection of other vulnerable groups such as persons with disability, HIV victims and the destitute.

Women are provided equal rights with men in entering into marriage, within marriage and in divorce. Article 11 of the FDRE Family Law states that marriage is monogamous and Article 33 asserts that

polygamy is illegal and the second marriage entered can be disbanded by law. Regions are provided rights to enact family laws within the framework of the FDRE family law.

The FDRE land policy confirms constitutional provisions. Rural Land Administration and Use Proclamations issued at different times, Proclamation No.89/1997 and Proclamation No.456/2005 affirm that every Ethiopian national without discrimination has right to use rural and urban land. The same proclamation also states that every rural resident who wants to make a livelihood from farming is entitled to use a plot of land free of charge and women have rights to access rural land. These proclamations include provisions on rural land administration. Accordingly, rural land should be measured, registered and land holding certificate should be provided to users/holders. Rural landholding certificate should contain information on land size, land use type and cover, level of fertility and borders. Rural land use has no time limit and farmers are provided rights to lease transfer or inherit rural land use right to family members. Rural landholders are also entitled to compensation in case of eviction.

Land policy should consider interlink with other sectors and sectoral policies should consider land policy to contribute to the overall socio-economic development of the country. Land policy is linked with agriculture and rural development, women's policy and family laws. Ethiopia has a documented policy on women in all aspects of life including an access to land (FDRE a policy package on women, 2006). However, only some mentions are given with in the broad Agriculture and Rural Development Strategy of 2003 about the rights of pastoralists. Be that as it may a policy coverage is given for women, pastoralists and peasants. Especially, the Agriculture and Rural Development Strategy, on Pastoralists, capitalizes on;

“Food insecurity and poverty are as pervasive and deep in pastoral communities across the country as they are in the traditionally drought-prone locations where sedentary agriculture is practiced. It is true that in these areas there are a number of places with dependable surface and underground water supply. But it is well known that rainfall in these areas is too scanty and too intermittent to support rain fed crop production. Therefore, rapid and sustainable economic growth that will ensure food security is strongly linked to livestock development. Needless to state that livestock focused development should constitute the base for change and increased welfare among the pastoralists.”

The National Policy on Ethiopian Women is an innovative for Article 35 of the FDRE Constitution. The policy affirms women's equal right with men in social, economic and political spheres. One of the major objectives is to facilitate conditions for rural women to access productive resources particularly land and basic social services (TGE, 1993). Contents of the policy further emphasize on ensuring women's equality through legal reforms, awareness creation, initiating women's participation in formulation of government policies and implementation of programs (TGE, 1993). Furthermore, government had developed and issued National Action Plan for Gender Equality (NAP-GE, 2006). Therefore, women's policy and rural land policy have strong linkages because women's policy put rural women's equal access to productive resources, particularly land, as basic for women's equality.

4.1 Who are vulnerable groups in Ethiopia?

Though there is no clear indication as to which groups should be considered vulnerable in Ethiopia, the groups mentioned under section two are practically considered vulnerable. These groups in Ethiopia include women, orphan children, HIV/AIDS victims, pastoralists, poor peasants, persons with disabilities and the urban and rural poor. Moreover, no proclamation in the country has listed who vulnerable groups are. Only a single proclamation i.e proclamation number 916/2016 tries to highlight the presence of some fabric of society who are considered as vulnerable without further explanation under its article 34/13/c. However, the National Social Protection Policy of Ethiopia identified the types of vulnerability prevalent in Ethiopia including agricultural vulnerability, natural calamities, economic shocks, health and nutrition risks, demographic vulnerability/population explosion.(ENSPP, 2012). Elderly, HIV victims, disabled and unemployed are the groups of vulnerability.

4.1.1 Women:

Women are among the vulnerable groups; in fact they are highly marginalized groups of persons because of religious, cultural, political and other factors. Considering these facts the current constitution and the national policy on women have given due emphasis to women. Women's rights on access to land and other status are recognized on the constitutional provisions of art. 25, 35, 40. Not only these the EPRDF Women Development and Change Package (2008) takes a special consideration of women's vulnerability. It has pin pointed the main causes against women discrimination in the strategy document. Patriarical thinking, Lack of adequate participation of women in political, social, economic and cultural affairs, lack of political will to support women are among the issues identified by the policy document on women (EWDCP, 2008). Be it of such factors or as some say historical problems women have been are still being marginalized which resulted in economic, psychological, political or social status. Researches show that in Ethiopia, women are highly engaged in the production of agricultural products but to their dismay unable or discouraged to appropriate the same. According to IDRC Scoping study citing Alemayehu and Ojulu, "in rural Ethiopia women constitute half of the country's population and play critical role in agricultural production, where they make up the majority of the agricultural workforce by which over 50-80 % of the labor force required in crops and "livestock production as well as environmental rehabilitation is performed by women."(IDRC, 2017). In rural Ethiopia land is not only material and productive resource that enable livelihood of the rural community, but it is also an important symbolic resource that heavily influences status and identity (Teshome 2015). Particularly, for rural women, land is an important resource especially when the household broke up due to migration, war, abandonment, divorce, polygamous relationships, illness or death (Agarwal, 1994) and it is the most fundamental resource to their living conditions, economic empowerment and, to some extent, their struggle for equity and equality (Teshome, 2015).. In the Amhara region, where the study area forms apart, the time and labor input of women in crop production is found to be 50 % (Wudenesh, 2003).

However, the existing literature shows that despite women's significant contribution to the agricultural sector, as women in others parts of the developing world, women in Ethiopia historically had no or limited access to and control over important agricultural resources such as land, livestock, farm implements, capital, knowledge and information (Lemlem et al. 2011; Sachs 1996; Zenebe 2005; Sintayehu 2003; Fong and Bhushan 1996; IDRC,2017)). Moreover, researches show that despite the

constitutional and legal recognition of women's access to land the latter do not have actual control over land (Agarwal 1997; Davison 1988; Deere and León 2001; Teklu 2005; Verma 2007). This is because the problem is deeply rooted in the social, political and power relations. The mere recognition by the constitution and the policy of the country is not enough to secure women's land rights because the socio-cultural norms and customary practices did not allow women to decide whether and how a resource should be used, how it is to be allocated and share the benefits. This in turn has made women one of the most vulnerable groups of the society, socially inferior and economically dependent on men (Teshome, 2015). In addition to that the customary laws of inheritance and marriage are designed to the detriment of women's rights. In most of the regions in Ethiopia, during marriage women are expected to leave their parents home to join their husbands parents. These practices affects the rights of women because it allows them to have an only access to marital land which most of the ime is at the disposal of the husbands being the head of the family.

4.1.2 Other vulnerable groups:

Pastoralists, peasants, persons with disability, HIV victims, urban and rural poor are some of the vulnerable groups in Ethiopia in addition to women. So far though there are legal and constitutional recognitions on access to land for pastoralists and peasant farmers, no specific and comprehensive legal recognition is granted to the other vulnerable groups including disabled, HIV victims and rural and urban poor. Moreover, no proclamation in the country has listed who vulnerable groups are. Only a single proclamation i.e proclamation number 916/2016 tries to highlight the presence of some fabric of society who are considered as vulnerable without further expalanation under its article 34/13/c. However, the National Social Protection Policy of Ethiopia identified the types of vulnerability prevalent in Ethiopia including agricultural vulnerability, natural calamities, economic shocks, health and nutrition risks, demographic vulnerability/population explosion.(ENSPP, 2012). Elderly, HIV victims, disabled and unemployed are the groups of vulnerability. But nowhere in the policy or other documents mention the access to land of such groups. Although associations such as associations of HIV Victims, elderly and disabled are formed and recognized in the country their role in promoting the access to land of these groups are minimal or none.

Ethiopian constitution, considering the special interests of peasants and pastoralists, underpinned the rights of peasants and pastoralists under articles 40 (5,6) and 41 (4,6). Pastoral lands in Ethiopia are largely managed by customary authorities using rules and regulations that evolved over a long period of time. Clans operate in a socially recognized territory over which they have exclusive primary land use rights. Such territories have dry and wet season grazing areas where members of the clan practice rotational grazing. River basins that are usually flooded during rainy seasons and valley bottoms whose soils retain moisture far into the dry season constitute dry season grazing areas. Neighboring clans who have similar primary land use rights over their territory also have secondary rights in their neighboring clan territories during droughts or failure of water resources (Policy document, 2006). These secondary rights are based upon inter-clan negotiated reciprocity. When such reciprocities are practiced, the guest clan has to observe the rules and regulations of the host clan on the use of the grazing and water resources such as refraining from cutting trees, observing turns at watering points and not stealing livestock. There has been considerable pressure and interference on customary management of pastoral lands in Ethiopia, particularly in those

pastoral lands that contain river basins in which the State has initiated irrigation developments since the mid-1950s (USAID, 2010). These interventions have excised out large areas of dry season grazing from pastoral landholdings, reducing their capacity to maintain their livelihood in the face of increasing population and occurrences of drought.

There appears to be a widely held belief that pastoralism is no longer a viable means of livelihood, resulting in pressure on customary systems of pastoral land rights and land management. Even during the Imperial regime¹ and the Derg era², there were efforts to settle pastoralists on irrigated land in the river basins alongside the irrigated state farms that were developed on expropriated grazing lands. Because pastoralists lacked farming know-how, the State built the irrigation infrastructure and farm machinery services while the pastoralists provide labor for weeding and harvesting the crops grown, which was mainly cotton (USAID, 2010). These settlements were eventually abandoned in the late 1980s because the State was unable to sustain these services.

The EPRDF regime in the early 1990s returned the state farms to the Afar Regional Government, which, in turn, subdivided some of the state farm lands and distributed them to elite members of the pastoralist communities for farming purposes (Agricultural Land Policy, 2003). Other state farms were given out on leasehold to local investors. The revenues from these leaseholds were distributed among the clans who have original land use rights on these lands. It is reported that poor members of the clan and women were not beneficiaries of either the land distribution for farming or the distribution of income from the leaseholds. Although the expropriation of land for irrigation development abated during the early years of the current EPRDF government, it is now on the rise as allocations for both private and state-run large sugar and cotton estates are being made. These allocations will once again erode the sustainability of the pastoralist mode of livelihood (Hundie and Padmanabhan 2008; Beyene and Korf 2008).

5. CAUSE OF VULNERABILITY

5.1 Inadequate legal and institutional regime

As discussed above, there is no acute shortage of legal infrastructure as long as women's right is concerned. The constitution, International instruments such as CEDAW, the land proclamations and the family law all include provisions on women's right. The mere legal recognition, however, doesn't guarantee the protection of these group because of social, psychological, cultural or religious prejudices against women. But the problem lies in the failure special laws on the protection of other vulnerable groups on access to land. Though there are some informal measures directed for their protection, the absence of adequate legal infrastructure left the vulnerable groups helpless. A disabled person from Amhara region complained, "my brother used to maintain me by cultivating our deceased parents farm land before he died. But after his death I went to a near bytown to assist my self by begging on the streets since I cannot cultivate it by myself. But the wereda Land administration office took the land away saying that I have left cultivating it for three years. Though I brought a case to the kebele land committee and the wereda court I didn't still get adequate solution. I can't hire a lawyer for I don't have a penny to pay." Therefore, the absence of a means to protect vulnerable groups' land rights exposed these people to a greater exploitation. But the researchers

believe that it is not the lack of legal protection to these groups i.e. women and other vulnerable groups that affects most but the social, political and institutional factors that are deeply embedded in the Ethiopian society that is exacerbating the problem as we will see below.

5.2 Customary practices

Besides, laws in themselves will not bring about equity and equality. Investigating the problems and bottlenecks for implementation and finding remedies along the way is vital... Access to land alone cannot bring about food security or eradicate poverty. Land rights for women must be supplemented by other resources like traction power and credit services. Intervention to resolve women's land rights need to take on board these complementary issues so that meaningful improvement in the lives of rural women can be attained and their eventual emancipation realized (Tesfa, 2002:20).

However, policies and laws that are formulated to bring gender equality could not change the traditions and customary laws that has been exercised within the society for years. Customary practices could not change the status of men as the owner and head of the household, who is supposed to exercise power over the use and management of household's resources mainly land, most valuable resources of the society. Such type of perception of men has always been a source of conflict between a wife and a husband. Thus, there is still a gap between owning land titles and the enjoyment of the benefits accruing from them, since some women are still involved in different kinds of land-related conflicts and face challenges related to the control and legitimacy of their land rights.

Patriarchal thinking is prevalent in Ethiopia. This attitude has been supported by law, custom and religion for years. The civil code of Ethiopia which is the major private law governing the social interactions of the country is affected by this thinking. The provisions in the civil code relating to family, succession, property and status are the instances which show the superiority of men over women. Even after the introduction of the family law of Ethiopia (2000) the Civil Code's influence is still affecting parties and implementing institutions. This custom has deterred women from participating in the political, social and economic affairs that affects their interest. Where their land rights is not registered after marriage their disputes will be dictated traditionally which will affect their interest since the dispute settlers, who are, most of the time elderly people, not sensitive to women's interests.

Moreover, in the muslim community parts of the country in almost all regions polygamy is a custom. In case of polygamy, the second wife will be disadvantaged since land rights will be registered only ones making the second wife landless. The attitudes towards other vulnerable groups such as disabled and the HIV victims are even worse. This is because these groups are legally unprotected and socially ostracised. Researchs found that women in polygamous marriages are largely disadvantaged since husbands usually registered one wife usually the housewife, denying the right of other wives to access land (Zenebework and Yared, 2000).

The Ethiopian policy on women identified lack of participation of women to secure their own interests is one cause of women vulnerability. Women are either unwilling or discouraged to participate in the political and economic affairs affecting their interest. This makes them unrepresented and subject to oppression. IDRC found that some of the reasons cited by the women during the discussion were:

1. They were not informed of the dates or locations of the meetings;

2. It is a task for men to attend such meetings; and Women do not go to meetings.

Women's low participation in the land titling process and other socio-political activities is linked primarily with their low position in society. Women are not empowered to claim leadership positions. The traditionalists say, "A women's place is in the kitchen" and this seems to be applicable in the arena of land registration particularly. The majority of women themselves believe strongly that getting involved in land registration is the task of men; they even believe

that it makes no difference to their rights whether women participate or not in the registration exercise (Almaz, 2016). Contrary to this, those women who have faced a problem in relation to their land rights because of divorce, inheritance, or boundary conflict are hindered by the lack of women involved in the process. Almaz noted that women's lack of interest to participate is demonstrated by the number of women who prefer to go to the women's desk instead of the Woreda LUAD when facing problems in relation to their land rights registration. She gave an example given during field interviews in WoretaZuria was a number of women who requested clarification of their individual cases at the women's desk because they did not feel comfortable requesting assistance from the LUAC.

Almaz reported that the following interview of one women on the Goat LUAC was explicit about the importance of having a female member on the committee.

"She is 34 years old, married, and educated to grade seven. The work was challenging for her in the beginning given the general perception of women not being able to handle such tasks. However, she has proved herself competent and even better than some men on the committee, as witnessed by other male committee members and the Woreda LUAD officer. In her experience, women tend to feel freer telling their problems to other women rather than to a man. She also remarked that women tend to be more neutral and abide by the law in implementing such

sensitive policies. She further lamented that a considerable number of men had tried to exclude their wives' names from the registration. In several cases, some of the LUAC members colluded with these husbands, whereas she believed that any women on the committee would stand up for women's rights." (Almaz, 2016)

It can be concluded that women's socio-political position is very low compared with men. Land ownership is not only an economic issue, but is closely correlated with social and political power. Empowerment of women is essential for them to access land rights. For this to occur, there needs to be greater reinforcement of gender policy at Woreda and Goat levels so that women are better represented on the LUAC. At the community level, women need greater encouragement and support to participate fully in the land registration process.

5.3 Lack of political will

The mere legal recognition to protect women and other vulnerable groups is not enough so that the political will of the government and its enforcing institutions is also decisive. These vulnerable groups where ever they are (Urban or rural) should be protected by a clear policies oon their economic, social, political and cultural interests which should also include a determined political will to enforce these policies guidelines. Being the primary beneficiaries on these policies an enabling environment should also be created so that these groups will effectively participate in the making and implementing the policies. Though there has been adequate policies and strategies to support

women the political will on the side of the government to enforce and mobilize the beneficiaries (women) to get their interests respected has been minimal (FDRE Policy document, 2008). So that there hasn't been an effective political will and women are still under undue subjugation in all aspects of their life including their right to land. The problem is heightened with respect to other vulnerable groups since there is no adequate policy and strategy support.

6. LAND ADMINISTRATION SHORTCOMINGS

Land administration can be defined as the process of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies (UN-Habitat, 2013). It includes land rights, land use regulation and land valuation and taxation (UN-Habitat, 2013). Therefore, good land administration involves good land governance that is land administration systems must, for example, be transparent, operate on principles of fairness and equity, must include accountability and monitoring process and must engage with and reflect the needs of the public. On the contrary, weak land governance lacks these principles and will ultimately affect vulnerable groups. According to UN-Habitat (2013), "weak governance undermines vulnerable individuals and groups by threatening the land rights of the poor and the vulnerable."

Two different researches focused on the land administration process being carried out in four regions of the country (Amhara, Tigray, Oromia and SNNPR) revealed that the process reflected a range of issues in regional similarities and differences (Tesfaye, 2005; Deininger, Daniel, Holden, and Zevenbergen, 2007). These studies reflected community participation at early stage of the land administration process and decentralization of the process was similar in the four regions. LACs are policy implementing bodies established at the lowest level of local government in Kebeles and Sub-Kebeles. LAC members constitute 92%, directly elected by vote and 8%, Kebele council appointees (Deininger, et al. 2007:8). LACs are required to include at least one female member out of five members. However, research findings reflected low female representation. Only 20% of LACs included a female member from all these regions and female representation was effected in only 8% of LACs established in Oromia (Deininger, et al. 2007:11). Provision of short-term training to LAC members, duties and responsibilities assigned and rendering free service to communities was similar across these regions. LACs' access to written materials was limited in all these regions. About two thirds of LACs received copies of the regional proclamation in Oromia (Deininger, et al. 2007:12).

Rural land proclamations issued in Amhara, Oromia and SNNPR regions mandated joint-titling to spouses and land is registered on names of both spouses. Space is provided on the landholding certificates to put photos of both spouses in Amhara and SNNPR but, not in Oromia (Deininger, et al. 2007). In Oromia the certificate had space to put photo of the landholder only even in spousal joint-registration. The comparative research reflected significant differences between regions that applied spousal joint-registration on number of certificates issued in the name of husbands. Number of certificates issued exclusively in names of husbands in Amhara was less than 9% of the total certificates issued in the region whereas it was 58% in Oromia (Deininger, et al. 2007:13).

Although the government has established an organ responsible for the implementation of land rights registration, the LUACs, there is not adequate staffing at the Woreda level to supervise the process; nor does the government have a gender focal point. The inadequacy of human resources at the Woreda level has a direct impact on the proper implementation of the policy at the community level.

Lack of uniformity of the level of understanding and interpretation of the law by the committees - though primarily attributed to their level of education - are the consequences

of a lack of intensive training and follow-up by the Woreda desk officers. This is evident, for example, in Fogera Woreda where there are six officers administering the land registration process. There is greater efficiency and participation by women in the Goat LUAC because there are women on the committee. The capacity of the responsible office can constrain the fair implementation of the law. Although the issue of involving women in the process of registration is raised more and more, government officials still tend to believe that women cannot handle such a difficult task as it is time consuming and requires moving from field to field. In addition, there is the challenge of convincing the local community about the importance of involving women in the process. Although the procedures of the current land rights registration are orderly and community based, the lack of attention for involving women in the process can be a serious drawback in fulfilling the policy commitment on gender equity.

Although the government has established an organ responsible for the implementation of land rights registration, the LUACs, there is not adequate staffing at the Woreda level to supervise the process; nor does the government have a gender focal point. The inadequacy of human resources at the Woreda level has a direct impact on the proper implementation of the policy at the community level. Lack of uniformity of the level of understanding and interpretation of the law by the committees - though primarily attributed to their level of education - are the consequences of a lack of intensive training and follow-up by the Woreda desk officers. According to Almaz, 2016, in one of her study area around Amhara region, there are six officers administering the land registration process. There is greater efficiency and participation by women in the Goat LUAC because there are women on the committee. The capacity of the responsible office can constrain the fair implementation of the law.”

7. ENHANCING THEIR PARTICIPATION

Understanding and alleviating the problems which caused the vulnerability would help for the strategies to enhance their participation in issues which affect their lives. As shown in the preceding chapters the main causes which affect the lives of the women and other vulnerable groups emanate from policy, legal, customary, social and political loopholes in the country. One mechanism to do this is creating enabling environment for vulnerable groups to participate in the affairs that affect their interest. This can be realized through encouraging women and other vulnerable groups to participate in policy making, administration and decision making. As noted above the number of these vulnerable groups in land administration and land dispute resolution are minimal which resulted in their vulnerability. So securing representation in kebele or higher organs of administration and decision making is a better solution.

Moreover, the mere selection of these groups for the position of land administration, policy making and dispute settlement would be meaningless in the absence of adequate advocacy programs for the affected parties. Involvement of women in local institutions does need emphasis and support. However, the cultural influences that suppress women’s involvement in decision-making structures will make it difficult for women to play their role effectively in such a system (Asmare, 2016). Therefore, education and sensitization programs should be developed. This can be made by deconstructing the hidden factors of customary, religious or other causes which are instruments of

oppression. Enhancing the capacity of the land administration experts and kebele and woreda courts through training and education is a requirement.

8. CONCLUSION AND RECOMMENDATION.

The current domestic legal frame work governing access to land in Ethiopia includes the FDRE Constitution, the federal and regional land laws and international conventions ratified by the country. Since Ethiopia is a federal government, in addition to the constitution there are federal and regional proclamations on rural land. Currently, almost all the regions except Harari region have promulgated land laws. Though there is no clear indication as to which groups should be considered vulnerable in Ethiopia, the groups mentioned under section two are practically considered vulnerable. These groups in Ethiopia include women, orphan children, HIV/AIDS victims, pastoralists, poor peasants, persons with disabilities and the urban and rural poor. Moreover, no proclamation in the country has listed who vulnerable groups are. Only a single proclamation i.e proclamation number 916/2016 tries to highlight the presence of some fabric of society who are considered as vulnerable without further explanation under its article 34/13/c. However, the National Social Protection Policy of Ethiopia identified the types of vulnerability prevalent in Ethiopia including agricultural vulnerability, natural calamities, economic shocks, health and nutrition risks, demographic vulnerability/population explosion. Elderly, HIV victims, disabled and unemployed are the groups of vulnerability. Inadequate legal and institutional regime, customary practices, lack of political will and land administration shortcomings are among the causes of vulnerability in Ethiopia. Therefore, addressing such main causes of vulnerability requires nothing beyond alleviating problems related to the legal shortcomings, the inadequacy of legal and land experts, corruption and political reluctance, patriarchal customary practices and bad system of land administration. The government should, therefore, give a serious emphasis in these respects.

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10. AUTHOR CONTRIBUTIONS

WUBETU ANLEY BELAY: Conceptualization (lead); Collection literature (lead); Adapt methodology (lead); Data collection (lead); ; Data analysis and interpretation (lead); Editing (Supporting).

-MESFINE BEYENE ABRIHA: Conceptualization (lead and supporting); Collection literature (Lead and supporting); Adapt methodology (lead and supporting); Data collection (supporting); ; Data analysis and interpretation (lead and supporting); Editing (Lead)

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12. KEY TERMS AND DEFINITIONS

Vulnerable groups (VG) :The power of protecting access to land

***Rights in Land* :**are sometimes referred to as interest in land

Land: any part of specified area on the ground defined by its boundaries and affected to a qualified activity.